

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
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DATE FILED: 9/8/2021

BRAULIO THORNE, ON BEHALF OF
HIMSELF AND ALL OTHER PERSONS
SIMILARLY SITUATED,

Plaintiff,
-against-
PUMPERNICKEL PRESS, LLC,
Defendant.

1:20-cv-9441 (MKV)

ORDER OF DISMISSAL

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff filed his initial Complaint on November 11, 2020. [ECF No. 1]. Plaintiff then filed an Amended Complaint on May 7, 2021. An Affidavit of Service was filed on May 20, 2021. [ECF No. 15]. Defendants have not responded, and Plaintiff has taken no action in this case since then.

In an Order dated August 4, 2021, the Court directed Plaintiff to file any motion for a default judgment or take some other action by September 3, 2021 [ECF No. 16]. The Court stated that failure to move for a default judgment might result in dismissal of this action for failure to prosecute. Now a month later, Plaintiff has not filed a motion for default judgment, requested an extension of time to file such a motion, or taken any other action to prosecute this case.

The Court has considered the factors required by Second Circuit case law for dismissal pursuant to Rule 41(b), and the Court finds that dismissal is warranted. *See Baptiste v. Sommers*, 768 F.3d 212, 217 (2d Cir. 2014). Accordingly, IT IS HEREBY ORDERED that this case is dismissed, without prejudice, for failure to prosecute. Plaintiff may move to reinstate the case on or before October 8, 2021, otherwise the dismissal shall be with prejudice.

SO ORDERED.

Date: September 8, 2021
New York, NY

Mary Kay Vyskocil
MARY KAY VYSKOCIL
United States District Judge